IN THE HIGH COURT OF ANDHRA PRADESH
AT HYDERABAD

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W.P.No.3523 of 2001

Dt. 08-08-2007

Between:
Kanumarlapudi Ranga Rao

..Petitioner

and

1. The Sub-Inspector of Police (AGS) Khammam
   Khammam District And others.

..Respondents

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THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY

W.P.No.3523 of 2001

Oral Order:

The petitioner who is the owner of Auto bearing No.AP 2U 5103 calls in question the seizure of the said vehicle for violation of the provisions of Excise Act by the respondents on the ground that Auto is being used for transportation of black Jaggery and Alum.

Even as per the Remand Case Diary, it do not indicate that the said Auto was seized while transporting black Jaggery or Alum and selling the same for manufacturing of ID liquor. The investigation as per the Remand Case Diary discloses that A1 to A4, namely, Kanamarlapudi Brahmam, Kanamarlapudi Venkaiah, Kanamarlapudi Narayana Rao and Kanamarlapudi Jagadeesh are residents of Cheruvumadaram village, Nelakondapalli Mandal, Khammam District; A3 and A4 are sons of A1; A1 and A2 are doing black Jaggery and Alum business by importing the same from Gujarat State and selling to the people, who are manufacturing ID liquor in the nearby villages of Nelakondapalli, Kusumaneni and Mudigonda Mandals by supplying the Jaggery and Alum in an Auto through A3 and A4 (sons of A1). Accordingly FIR No.19/2001 was registered for the offence under Section 34 (e) of the A.P. Excise Act (for short “the Act”).

The counter affidavit filed by the 2nd respondent on behalf of the respondents discloses that the 1st respondent along with staff proceeded to the house of A1 situated in Cheruvumadaram village and seized 6,200 Kgs. of Alum and 206 slums of Black Jaggery total cost of

Rs.4 lakhs. A1 alleged to have confessed before the mediators that he was supplying the Jaggery and Alum to the ID liquor manufacturers in and around the Cheruvumadaram village by using the said auto.

There is no evidence to show that the vehicle in question (Auto) was used or intercepted while transporting black Jaggery or Alum.

Section 12 of the Act envisages confiscation of the vehicle without prejudice to the powers of the Excise Officer. If any offence has been committed under the Act, along with the prohibited item the vehicle, which is used to hold or carry the same, can also be confiscated as per Section 46 of the Act. As per sub-clause (3) of Section 45 of the Act any receptacle, package, or covering in which anything liable to confiscation under clause (1) or clause (2) is found, and the other contents, if any, of such receptacle, package or covering and any animal, vehicle, vessel, raft or other conveyance used for carrying the same can also be seized.

In the absence of any evidence that the vehicle in question (Auto) was used for carrying the prohibited items and the same has been seized while carrying the same, it cannot be confiscated. In view of the same, seizure of the vehicle cannot be sustainable and it is accordingly set aside.

The writ petition is accordingly allowed. No costs.

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A.GOPAL REDDY, J.

08-08-2007

Murthy